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In re Application of:
KUBO *et al.*
Serial No.: 09/927,547
Filed: August 13, 2001
Attorney Docket No.: 829-583

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition, filed January 14, 2003, to withdraw the holding of abandonment of the above-identified application. No fee is required for this petition.

The petition is **DISMISSED** as moot.

A notice of Allowance and Issue Fee Due (NOA) was mailed on August 26, 2002. A new NOA was mailed on January 28, 2003, and the statutory period for response was reset to run three months from the new mailing date. On April 25, 2003, a Request for Continued Examination (RCE) was filed.

Petitioner states that counsel did not receive the NOA mailed on August 26, 2002, and attests to the fact that a search of the file jacket and docket records indicates that the NOA was not received. The petition includes a copy of the docket record where the non-received NOA would have been entered had it been received and docketed. Petitioner further asserts that although no Notice of Abandonment has been received; however, it is assumed that the application was abandoned for failure to pay the issue fee.

A review of the written record indicates that a new NOA was properly re-mailed on January 28, 2003. The statutory period in which to pay the issue fee expired on April 28, 2003. The RCE was timely filed April 25, 2003, prior to the expiration of the period. As such, the application did not go abandoned.

Accordingly, the petition is dismissed.

The application file is being forwarded to the Technology Center 2800 support staff for processing the RCE. From there, the application will be sent to the examiner for continued examination.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (703) 308-0519.



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